

ADOT CAR No.: IGA /JPA13-0000904-I
AG Contract No.: P001-2013-001081
Project: Reconstruct TI
Section: Airport Rd JW Powell Blvd
Federal-aid No.: A89-B(002)
ADOT Project No.: H413401C
TIP/STIP No.: n/a
Budget Source Item No.: n/a

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
COCONINO COUNTY
AND
CITY OF FLAGSTAFF

THIS AGREEMENT is entered into this date _____, 2013, pursuant to the Arizona Revised Statutes §§ 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State"), the CITY OF FLAGSTAFF, and COCONINO COUNTY, (the "CITY" and the "COUNTY"). The State and the City and the County are collectively referred to as "Parties".

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.
2. The County is empowered by Arizona Revised Statutes § 11-251 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement on behalf of the County.
3. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.
4. The purpose of this agreement is to establish State, County and City maintenance responsibilities and jurisdiction of the JW Powell TI (ADOT Project No. 89A CN 398 H4134 01C) as shown in "Maintenance Limits - Exhibit 1", located at the Airport Rd Traffic Interchange, near I-17 MP 399 at the State Route 89A Traffic Intersection near Fort Tuthill Loop Rd.
5. The Parties hereto agree to and acknowledge the following conditions: the Parties shall perform their responsibilities consistent with this Agreement, and any change or modification to the Project will only occur with the mutual written consent of both Parties.

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State will:

- a. Maintain the area from the splitter islands to the roundabouts and the reconstructed JW Powell Blvd including all curbs and gutters located within the area.
- b. Maintain all newly constructed sidewalks.
- c. Maintain chain link fence for the Interstate 17 ramps.
- d. Upon completion and acceptance of the project, and approval of and by Resolution by the State Transportation Board, extinguish the right-of-way easement for the old alignment on SR 89A and Beulah Blvd., as shown on Exhibit 2, preserving the exiting utility easements.

2. The City will:

- a. Maintain and permit for the reconstructed Beulah Blvd up to the splitter island after the State Transportation Board extinguishes the right-of-way easement as described in paragraph 1(d) above.
- b. Maintain the barbed wire fence from the point where decorative fence ends at the City's well site to the section line (Sta 482+00) where the new barbed wire fence will connect to the existing right-of-way fence on Beulah Boulevard (Sta 490+70) as shown on Exhibit 1.

3. The County will:

- a. Maintain JW Powell Boulevard up to the west end of the splitter island.
- b. Maintain the newly installed decorative fence along the west side of the reconstructed SR 89A and along the west side of Beulah Boulevard up to the section line at the City's well site.
- c. Maintain the decorative fence along the east side of the reconstructed Beulah Boulevard, along both sides of the JW Powell Boulevard in between the two roundabouts and along the east side of the reconstructed SR 89A.
- d. Allow the State, under the authority of this agreement, onto County owned property as illustrated on the "Maintenance Limits - Exhibit 1, of this agreement.

III. MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this Agreement shall be perpetual, unless assumed by another competent entity.

2. To the extent permitted by law, the County and Parties hereby agree to save and hold harmless, defend and indemnify from loss, the State, any of its departments, agencies, officers or employees from any and all costs and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or non-performance of each Party's respective maintenance obligations. Costs incurred by a Party, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees.

3. The Parties warrant compliance with the Federal Funding Accountability and Transparency Act of 2006 and associated 2008 Amendments (the "Act"). Additionally, in a timely manner, the County and City will provide information that is requested by the State to enable the State to comply with the requirements of the Act, as may be applicable.

4. This Agreement shall become effective upon signing and dating of the Determination Letter by the State's Attorney General.

5. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

6. To the extent applicable under law, the provisions set forth in Arizona Revised Statutes §§ 35-214 and 35-215 shall apply to this Agreement.

7. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 2009-09 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

8. Every obligation of the Parties under this Agreement is conditioned upon the availability of funds appropriated or allocated for the fulfillment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by any Party at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and no Party shall be obligated or liable for any future payments as a result of termination under this paragraph.

9. In the event of any controversy, which may arise out of this Agreement, the Parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518 if applicable.

10. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

Arizona Department of Transportation

ADOT Flagstaff District
Chuck Gillick P.E.
District Maintenance Engineer
1801 S. Milton Rd
Flagstaff, AZ 86001
928-779-7545
Email: CGillick@azdot.gov

Coconino County

Cynthia Seelhammer
County Manager
219 East Cherry
Flagstaff, AZ 86001
928-679-7144
Email:
cseelhammer@coconino.az.gov

City of Flagstaff

Kevin Burke.
City Manager
211 W. Aspen Avenue
Flagstaff, AZ 86001
928-213-2680
Kburke@FlagstaffAZ.gov

13. The Parties shall comply with the applicable requirements of Arizona Revised Statutes § 41-4401.

14. The Parties hereto shall comply with all applicable laws, rules, regulations and ordinances, as may be amended.

15. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the Parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

COCONINO COUNTY

By _____
ELIZABETH ARCHULETA
Chairwoman of the Board

STATE OF ARIZONA

Department of Transportation

By _____
DALLAS HAMMIT, P.E.
Senior Deputy State Engineer, Development

ATTEST:

By _____
WENDY ESCOFFIER
County Clerk

CITY OF FLAGSTAFF

By _____
GERALD W. NABOURS
Mayor

ATTEST:

By _____
ELIZABETH A. BURKE
City Clerk

ATTORNEY APPROVAL FORM FOR COCONINO COUNTY

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and COCONINO COUNTY, an Agreement among public agencies which, has been reviewed pursuant to Arizona Revised Statutes §§ 11-951 through 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to Coconino County, under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State or the City to enter into this Agreement.

DATED this _____ day of _____, 2013.

County Attorney

ATTORNEY APPROVAL FORM FOR THE CITY OF FLAGSTAFF

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY OF FLAGSTAFF, an Agreement among public agencies which, has been reviewed pursuant to Arizona Revised Statutes §§ 11-951 through 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the City of Flagstaff, under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this _____ day of _____, 2013.

City Attorney